

STATE OF MICHIGAN
COURT OF APPEALS

In re N. SCOTT, Minor.

UNPUBLISHED
April 12, 2016

No. 329302
Ottawa Circuit Court
Family Division
LC No. 13-074895-NA

Before: BOONSTRA, P.J., and WILDER and METER, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court order terminating his parental rights to a minor child under MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist) and (g) (failure to provide proper care or custody). We affirm.

Respondent challenges the trial court’s findings regarding the statutory grounds for termination and the child’s best interests. To terminate parental rights, a trial court must find that a statutory ground for termination in MCL 712A.19b has been established by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). After a trial court has found a statutory ground for termination, the trial court shall order termination of parental rights if it finds by a preponderance of the evidence “that termination of parental rights is in the child’s best interests[.]” MCL 712A.19b(5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). A trial court’s factual findings in terminating parental rights, including a finding that a ground for termination has been established and that termination is in a child’s best interests, are reviewed for clear error. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Termination is proper under MCL 712A.19b(3)(g) where a “parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.” Here, respondent clearly failed to provide proper care and custody for the young child. Respondent’s alcohol abuse and domestic violence were the conditions that led to the child’s removal. During this case, respondent was provided with a series of services, including drug and alcohol screens, AA, parenting time, substance abuse and domestic violence counseling, counseling through Bethany Christian Services, a parent mentor program, a “SCRAM” tether that monitored alcohol use, and a psychological evaluation. However, a parent’s mere participation in and benefit from services is insufficient to warrant a continuation of parentage; rather, a parent must demonstrate sufficient compliance with and benefit from

services to address the problem targeted by those services. *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

During the termination hearing, respondent, respondent's parents, respondent's counselor, and respondent's parent mentor all testified that respondent had benefited from his services regarding alcohol abuse and domestic violence. However, in reaching its findings regarding the statutory grounds for termination, the trial court rejected that testimony on the ground that the testimony was not particularly credible because respondent had been manipulative in providing information to the witnesses. We defer to a trial court's credibility determinations. See *Berger v Berger*, 277 Mich App 700, 705; 747 NW2d 336 (2008). Additionally, the mother of the child testified regarding respondent's acts of domestic violence that occurred both before and during this case, respondent's caseworkers testified that respondent denied that he perpetrated domestic violence in his relationship with the child's mother, and the caseworkers testified that respondent was very verbally aggressive with them throughout this case, despite receiving services. One caseworker testified that respondent had made no progress with regard to emotional stability and that "an argument could be made that he's . . . gotten worse." Also, respondent did not regularly attend AA meetings; respondent was not fully cooperative with the screening program; on February 15, 2015, respondent sabotaged a caseworker's efforts to randomly screen him for alcohol and drugs; and on February 27, 2015, respondent tested positive for alcohol. Further, respondent withheld critical information regarding his alcohol use and domestic violence from his parents, counselor, and parent mentor. Thus, the record supported the trial court's finding that the testimony presented by respondent regarding his progress was not credible. In the light of that credibility determination, there was no credible evidence that respondent sufficiently benefited from his services regarding domestic violence and alcohol abuse to address those issues. The record showed that respondent's issues with domestic violence and alcohol abuse continued to prevent him from providing proper care and custody at the time of termination.

A trial court may rely on a respondent's history of failing to provide proper care and custody in finding that there was no reasonable expectation that the respondent would be able to provide proper care and custody within a reasonable time. See *In re Archer*, 277 Mich App 71, 75-76; 744 NW2d 1 (2007). Here, the child was young and had already spent approximately two years out of respondent's care. Respondent had not rectified his issues despite numerous services during the lengthy proceedings. On this record, the trial court did not clearly err in finding that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the child's age. The trial court did not clearly err in finding a statutory ground for termination under MCL 712A.19b(3)(g). MCR 3.977(K); *In re Trejo Minors*, 462 Mich at 356-357.

Because only one statutory ground for termination must be established to justify termination, *id.* at 360, and we affirm termination under subsection (g), we do not address MCL 712A.19b(3)(c)(i).

Regarding the child's best interests, the child's bond with respondent and the fact that the child was placed with a relative weighed against termination. See *In re Olive/Metts Minors*, 297 Mich App 35, 41-43; 823 NW2d 144 (2012). However, the trial court may determine the best interests of the child using evidence from the whole record. *In re Trejo Minors*, 462 Mich at

353. Respondent's history and the child's need for permanency and stability weighed in favor of termination. *In re Olive/Metts Minors*, 297 Mich App at 41-42; *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009). Under all the circumstances, including the insufficient progress respondent made during the lengthy proceedings, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCR 3.977(K); *In re Trejo Minors*, 462 Mich at 356-357.

Affirmed.

/s/ Mark T. Boonstra
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter